

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JIYAN AN,

Plaintiff,

vs.

Civ. No. 00-147 JP/WWD ACE

REGENTS OF THE UNIVERSITY OF CALIFORNIA
d/b/a LOS ALAMOS NATIONAL LABORATORY,
et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon the Motion for Reconsideration of Memorandum Opinion and Order Dated April 25, 2001. The motion was apparently docketed twice as docket entry 229 and docket entry 245. Docket no. 230 is the response to the motion by Defendants Regents of the University of California, Bradbury, and Foley; and docket no. 246 is the response by Laboratory Defendants to Jin's Motion for Reconsideration of the Memorandum Opinion and Order Dated 4/25/01. Since the motions, responses, and replies appear to be identical, this Memorandum Opinion and Order will address both docketed motions and the responses, etc., thereto.

My order of April 25, 2001, granted Defendants' Motion to Compel for the reason that the prospective witness had not responded to the motion. Zhe Jin had been properly subpoenaed, and was under the compulsion of the Court to appear at his deposition. When his deposition was taken, he declined to answer certain questions and the motion to compel followed. Basically,

Jin's position was that he was being forced to answer questions which were protected either by the confidentiality existing between a husband and wife, or that his answers might tend to incriminate him.

I have read the submissions of counsel, and it is clearly an open question as to whether either protection sought to be invoked by Jin applies. The matters sought to be inquired into may well be inadmissible; however, in the context of this case, I do not find Jin's arguments for barring discovery in these areas persuasive.

Having failed to make a timely response to the motion to compel; and having failed to persuade the Court that the matters which could have been raised were controlling in the circumstances of this case; I find that the Motion for Reconsideration is not well taken and that it should be denied.

WHEREFORE,

IT IS ORDERED that Zhe Jin's Motion for Reconsideration of Memorandum Opinion and Order dated April 25, 2001, be, and it is hereby, DENIED.

IT IS FURTHER ORDERED that Jin's deposition may be resumed upon four (4) days notice to the parties and the witness.



UNITED STATES MAGISTRATE JUDGE